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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,412	07/28/2001	Lan Ngoc Vu	JWO003-00	7641

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Jeffrey Van Myers  
P.O. Box 130  
Driftwood, TX 78619

EXAMINER

POLLACK, MELVIN H

ART UNIT PAPER NUMBER

2145

DATE MAILED: 08/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/917,412	<b>Applicant(s)</b> NGOC VU, LAN	
	<b>Examiner</b> Melvin H. Pollack	<b>Art Unit</b> 2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>see attached office action</u> .       |

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## **DETAILED ACTION**

### ***Response to Amendment***

In view of the appeal brief filed on 18 May 2006, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Jason Cardone.

  
**JASON CARDONE**  
**SUPERVISORY PATENT EXAMINER**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: secondary items for multicasting. Applicant has defined multi-casting as “simultaneously delivering, point to multi-point, the same content to multiple clients (P. 6, lines 12-13).” Claims 1 and 5 are drawn to a content server transmitting to a first client server, which in turn transmits to a first client. In addition to the problems that arise wherein a first client is mentioned without mention of a second client, such a claim as drawn does not describe multi-casting as described above. For the content server and the first client server to multi-cast, a second client server and second client must be mentioned. The remaining claims do not add a sufficient number of elements to show that the content server and first client server and second client server each transmit simultaneously to at least two lower-hierarchical elements.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Putzolu

(6,359,902).

7. For claims 1 and 5, Putzolu teaches a method and system (abstract) for multi-tier

multicasting (col. 1, line 1 – col. 3, line 36) via a public communication network (Fig. 3, #106), comprising:

a. A content server (Fig. 3, #110) adapted to multicast predetermined content via the public communication network (col. 6, lines 55-65), wherein the content server comprises a first tier (Fig. 6, #106);

b. A first client server (Fig. 3, #102; Fig. 4, #132) adapted to receive the content multi-cast by the content server (col. 7, lines 5-25) via the public communication network (Fig. 8, #106), and to multi-cast the received content (col. 8, lines 60-65) via a first private communication network (Fig. 8, #104), wherein the first client server comprises a second tier (Fig. 6, #104); and

c. A first client (Fig. 4, #116b) adapted to receive the content (col. 2, lines 35-40) multi-cast by the first client server via the first private communication network (col. 8, lines 10-20).

8. In addition to multicasting of the announcement of content data, the above shows that at least two of the possible computers may receive the content simultaneously, i.e. the live feed mentioned above. The examiner further notes that the claims as currently drawn do not preclude

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an advertising and tuning step before receiving content, nor do the claims preclude scaling of said content.

9. For claims 2 and 6, Putzolu teaches that the method and system further comprises:

a. A second client server adapted to receive the content multi-cast by the content server via the public communication network (col. 4, lines 25-27; col. 7, lines 5-20), and to multi-cast the received content via a second private communication network (Fig. 6, #202), wherein the first and second client servers comprise said second tier (Fig. 6, #106); and

b. A second client (Fig. 8, #116a) adapted to receive the content multi-cast by the second client server via the second private communication network (col. 8, lines 10-20).

11. For claim 3, Putzolu teaches a third client adapted to receive the content multi-cast by the second client server via the second private communication network (Fig. 9, #116d).

12. For claim 4, Putzolu teaches a second client adapted to receive the content multi-cast by the first client server via the first private communication network (Fig. 9, #116d).

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They disclose further multicasting teaching for public and private networks.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin H. Pollack whose telephone number is (571) 272-3887.

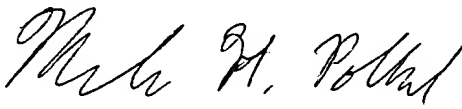
The examiner can normally be reached on 8:00-4:30 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MHP  
27 July 2006

  
Melvin H. Pollack  
AU 2145